

Message Text

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ACTION L-03

INFO OCT-01 EUR-12 ISO-00 EB-07 CIAE-00 COME-00 DODE-00

DOT-00 FMC-02 INR-07 NSAE-00 SAL-01 CG-00 DLOS-06

OES-06 AID-05 CEQ-01 ERDA-07 EPA-04 IO-13 NSF-02

NSC-05 PM-04 USIA-15 SS-15 SP-02 FEAE-00 INT-05 AF-08

ARA-10 EA-09 NEA-10 OIC-02 /162 W
----- 023147

R 061210Z JUL 76

FM AMEMBASSY LONDON

TO SECSTATE WASHDC 3385

UNCLAS SECTION 01 OF 02 LONDON 10446

E.O. 11652: N/A

TAGS: EWWT, IMCO

SUBJECT: IMCO LEGAL COMMITTEE

PASS TO L/EB - JOHN CROOK FROM SANDLER

SUMMARY:

1. TWENTY NINTH SESSION ENDED FAVORABLY. COMMITTEE MADE FEW FIRM DECISIONS CONCERNING EITHER A NEW CONVENTION OR EXTENDING THE 1969 CONVENTION. INSTEAD A DETAILED FACTUAL QUESTIONNAIRE WAS DRAFTED TO SEEK FURTHER INFORMATION. IT WILL BE SENT TO GOVERNMENTS AND TO TEN INTERNATIONAL BODIES. END SUMMARY

2. FOLLOWING DISCUSSION OF POSSIBLE EXTENSION OF 1969 CONVENTION (SEE LONDON 10107), COMMITTEE CONSIDERED POSSIBILITY OF A NEW CONVENTION ON HAZARDOUS SUBSTANCES. COMMITTEE DID EXPRESS CONSENSUS THAT ANY NEW CONVENTION SHOULD APPLY ONLY TO INJURY TO THIRD PARTIES, INCLUDING GOVERNMENTS, AND NOT TO CARGO DAMAGE NOR TO INJURY TO PASSENGERS ON A SHIP WHERE AN INCIDENT ORIGINATED, NOR TO DAMAGE TO SHIPS THAT ARE PARTIES TO A COLLISION. IT WAS UNCLASSIFIED

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THOUGHT THAT DAMAGES WOULD INCLUDE CLEANUP COSTS AND

OTHER PREVENTATIVE MEASURES. THERE WAS ALSO A GENERAL VIEW THAT ANY NEW CONVENTION SHOULD APPLY TO FIRE, EXPLOSION AND TOXICITY, IN ADDITION TO MARINE POLLUTION. THE UNITED KINGDOM WAS THE PRINCIPAL DISSENTER FROM THIS VIEW, AND QUESTIONED WHETHER THE COMMITTEE'S MANDATE ENCOMPASSED TYPES OF DAMAGE OTHER THAN MARINE POLLUTION.

3. WITH RESPECT TO SUBSTANCES, COMMITTEE CONCLUDED THAT MORE INFORMATION WAS NECESSARY. THERE WAS A GENERAL VIEW THAT SUBSTANCES BE SPECIFICALLY ENNUMERATED, BUT THAT SOME PROVISION BE MADE TO ACCOUNT FOR ANY SUBSTANCES THAT WERE SUBSEQUENTLY INVENTED.

4. THE LARGEST FIGHTS FOR THE FUTURE WILL PROBABLY BE ON THE NATURE AND BURDEN OF LIABILITY. A NUMBER OF DELEGATIONS, PARTICULARLY THE EAST EUROPEANS AND GREECE, EXPRESSED DOUBTS AS TO WHETHER A NEW CONVENTION SHOULD BE BASED ON STRICT LIABILITY. THE LARGEST IMMINENT CONTROVERSY WILL BE ON WHO BEARS THE BURDEN OF LIABILITY. THE SCANS, THE UK, AND THE NETHERLANDS WERE AGAIN ANXIOUS TO SHIFT THE BURDEN TO THE CARGO INTEREST (THE PRODUCER OR THE SHIPPER). HOWEVER, PROMPTED BY AN OBSERVATION FROM THE US, A NUMBER OF DELEGATIONS SEEM TO BE ACTIVELY CONSIDERING WHETHER LIABILITY SHOULD BE ON THE CARRIER IN CASES INVOLVING EITHER BULK TRANSPORT OF SUBSTANCES OR PACKAGED SUBSTANCES WHERE THE CARRIER HAS NOTICE OF THE HAZARDS.

5. LIKE VIRTUALLY EVERY OTHER DELEGATION, THE US MAINTAINED THAT INFORMATION WAS INADEQUATE TO TAKE A POSITION ON THE BURDEN OF LIABILITY ISSUE. WE DID, HOWEVER, ADVANCE THE IDEA THAT THIS ISSUE DEPENDED ON WHICH POLICIES ONE WAS SEEKING TO FURTHER--E.G., PLACING LIABILITY ON THE PARTY BEST ABLE TO PREVENT INCIDENTS, OR ON THE PARTY BEST ABLE TO PROVIDE COMPENSATION. TO MAKE SUCH ASSESSMENTS, THE COMMITTEE AGREED THAT INFORMATION WAS NECESSARY WITH RESPECT TO HAZARDOUS SUBSTANCES, THE CIRCUMSTANCES THAT COULD GIVE RISE TO INCIDENTS AND THE AVAILABILITY OF INSURANCE.

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6. TO OBTAIN THIS INFORMATION, COMMITTEE APPROVED A QUESTIONNAIRE BASED ON AN ALTERNATIVE WORKING DRAFT SUBMITTED BY US. LARRY WEISE HAS A COPY.

7. A NUMBER OF DELEGATIONS STRONGLY OPPOSED HAVING A SYSTEM OF COMPULSORY INSURANCE AND CERTIFICATION IN ANY NEW CONVENTION. ALTHOUGH THE COMMITTEE TOOK NO DECISION ON THIS ISSUE, COMPULSORY INSURANCE SEEMS MORIBUND.

FRANCE WAS THE ONLY DELEGATION PRESSING FOR IT. WE TOOK NO POSITION AND MADE NO COMMENT ON THIS ISSUE.

8. THERE SEEMED TO BE NO INTEREST WHATSOEVER, AT LEAST AT THIS STAGE, FOR INCLUDING A REGIME OF ADMINISTRATIVE REGULATION AND PENALTIES IN ANY NEW CONVENTION.

9. BECAUSE IT SEEMED UNLIKELY THAT THE COMMITTEE WOULD

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NSC-05 PM-04 USIA-15 SS-15 SP-02 FEAE-00 INT-05 AF-08

ARA-10 EA-09 NEA-10 OIC-02 /162 W

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R 061210Z JUL 76

FM AMEMBASSY LONDON

TO SECSTATE WASHDC 3386

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HAVE RECEIVED SUBSTANTIAL NEW FACTUAL INFORMATION BY SEPTEMBER, IT WAS DECIDED TO DEVOTE THE THIRTIETH SESSION PRIMARILY TO A POSSIBLE EXTENSION OF THE 1969 CONVENTION TO NON-PERSISTENT OILS. IF, HOWEVER, SOME NEW INFORMATION WAS AVAILABLE, SOME TIME WOULD BE DEVOTED TO DISCUSSION OF A NEW CONVENTION.

10. ALSO AT THE THIRTIETH SESSION WILL BE A DISCUSSION OF THE TWO MANUALS THAT WERE BELATEDLY INCLUDED UNDER AGENDA ITEM 4 AT THIS MEETING. THE STATUS OF RATIFICA-

TION OF THE BRUSSELS CONVENTION ON STOWAWAYS WAS SHIFTED TO THE SECOND WEEK IN SEPTEMBER (THE 3LST SESSION). THE SOVIETS, HOWEVER, WERE CONCERNED THAT THIS SUBJECT MIGHT INTERFERE WITH OTHER ITEMS FOR THE 3LST SESSION AND OBTAINED AN UNDERSTANDING THAT DISCUSSION WOULD LAST ONLY AN HOUR OR TWO AND WOULD BE LIMITED TO THE STATUS OF RATIFICATION.

11. MEETING DATES WERE PROPOSED FOR 1977. FOR THE FIRST TWO CONSECUTIVE SESSIONS, THE SECRETARIAT WILL SELECT A UNCLASSIFIED

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TWO WEEK PERIOD IN EITHER OF TWO ALTERNATIVE TIME PERIODS--IN APRIL FOLLOWING EASTER HOLIDAYS OR IN LATE MAY OR EARLY JUNE. THE APRIL PERIOD WILL BE SELECTED UNLESS THERE IS A CONFLICT WITH OTHER CONFERENCES SUCH AS LAW OF THE SEA. THE SECOND SET OF CONSECUTIVE SESSIONS WILL TAKE PLACE IN OCTOBER.

ARMSTRONG

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: INSURANCE, MEETING REPORTS, CARGO SHIPS, SHIP ACCIDENTS
Control Number: n/a
Copy: SINGLE
Draft Date: 06 JUL 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976LONDON10446
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760259-1060
From: LONDON
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760788/aaaaczsj.tel
Line Count: 193
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION L
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: schwenja
Review Comment: n/a
Review Content Flags:
Review Date: 19 APR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <19 APR 2004 by ThomasVJ>; APPROVED <09 AUG 2004 by schwenja>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: IMCO LEGAL COMMITTEE PASS TO L/EB - JOHN CROOK FROM SANDLER
TAGS: EWWT, IMCO
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006